

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JESSE CRUZ, et al.,

Plaintiffs,

V.

DANNY DURBIN, et al,

Defendants.

and related actions.

2:11-cv-342-LDG-VCF

ORDER

The following matters have come before the court:

I. Plaintiffs' objection to magistrate judge's order granting in part and denying in part plaintiffs' motion to strike defendants' untimely liability expert David Frecker (#147, response #155)

The court finds that the magistrate judge's ruling on plaintiff Cruz's motion to strike defendants' liability expert (#136) was supported by the record and judicious in mitigating any prejudice to plaintiffs related to deposing the expert. The magistrate judge's conclusions were not clearly erroneous, and his order will be affirmed.

II. Plaintiff-in-intervention Imperium Insurance Company's motion for leave to intervene in action (#163)

This motion is unopposed, and a parallel motion has been granted by the magistrate judge (#124). It will be granted.

1 III. Plaintiff's objection to magistrate judge denying Cruz's motion for discovery sanctions and
2 stipulation to extend time for discovery (#187)

3 The magistrate judge considered plaintiffs' motion for discovery sanctions as a motion to
4 compel. Plaintiffs have not shown how the magistrate judge's orders concerning discovery were
5 clearly erroneous. They have pointed to nothing to rebut the accuracy of Wabash's response that it
6 did not design the brake system configuration, and could not locate the individual who in 1997
7 installed the brakes on the trailer. Plaintiffs have not shown that Wabash's statements that it had
8 made a good faith effort to locate the information sought in plaintiffs' requests but could not do so
9 were inaccurate. Plaintiffs' attempts to notice Wabash's Rule 30(b)(6) deposition were flawed, and
10 it was not Wabash's duty to notice proper depositions of plaintiffs' witnesses. Nor did the
11 magistrate judge err in denying the request to extend discovery. His ruling will be affirmed.

12 IV. Meritor, Inc.'s motion for final judgment pursuant to Rule 54(b) (#189, notice of non-
13 opposition #203), and request for ruling on motion for final judgment (#224)

14 Considering the grounds for the court's grant of Meritor's motion to dismiss (#181) and
15 the arguments of Meritor in its unopposed motion for final judgment, the court finds that there is
16 no just reason for delay in entering judgment. Meritor's motion will be granted. Meritor's request
17 for ruling on motion for final judgment will be denied as moot.

18 Based on the foregoing,

19 THE COURT HEREBY ORDERS that plaintiffs' objection to magistrate judge's order
20 granting in part and denying in part plaintiffs' motion to strike defendants' untimely liability
21 expert David Frecker (#147) is DENIED, and the magistrate judge's order is AFFIRMED.

22 THE COURT FURTHER ORDERS that plaintiff-in-intervention Imperium Insurance
23 Company's motion for leave to intervene in action (#163) is GRANTED.

1 THE COURT FURTHER ORDERS that plaintiffs' objection to magistrate judge denying
2 Cruz's motion for discovery sanctions and stipulation to extend time for discovery (#187) is
3 DENIED, and the magistrate judge's order is AFFIRMED.

4 THE COURT FURTHER ORDERS that Meritor, Inc.'s motion for final judgment
5 pursuant to Rule 54(b) (#189) is GRANTED, and that its request for ruling on motion for final
6 judgment (#224) is DENIED as moot.

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8 DATED this 21 day of September, 2015.

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11 Lloyd B. George
United States District Judge
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